

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JOHNNIE LEE SMITH,)
Petitioner,) Civil Action No. 08-1311
v.) Judge Lancaster
BRIAN V. COLEMAN,) Magistrate Judge Bissoon
Respondent.)

MEMORANDUM ORDER

Johnnie Lee Smith's petition for writ of habeas corpus was received by the Clerk of Court on September 19, 2008, and was referred to United States Magistrate Judge Cathy S. Bissoon for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation, filed on April 14, 2009, recommended that the Petition for Writ of Habeas Corpus filed by Petitioner Smith be dismissed as a second or successive petition which requires prior approval from the Court of Appeals. The parties were allowed ten days from the date of service to file objections. Smith filed objections on April 21, 2009.

After de novo review of the pleadings and documents in the case, together with the Report and Recommendation and the objections thereto, the following order is entered:

AND NOW, this 12th day of May, 2009,

IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus filed by Johnnie Lee Smith is dismissed.

The Report and Recommendation of Magistrate Judge Bissoon, (Doc. 19), dated April 14, 2009, is adopted as the opinion of the court.



Gary L. Lancaster
U.S. District Court Judge

CC:
JOHNNIE LEE SMITH
AC-8935
SCI Fayette
50 Overlook Drive
LaBelle, PA 15450